

REMARKS

In the Office Action, the Examiner rejected Claims 1-4, 6-10 and 12-17, which are all of the pending claims, under 35 U.S.C. §103 as being unpatentable over the prior art. In particular, Claims 1-4, 7-10 and 13-16 were rejected as being unpatentable over U.S. Patent 6,578,066 (Logan, et al.) in view of U.S. Patent application publication no. 2003/0145106 (Brown); and Claims 6, 12 and 17 were rejected as being unpatentable over Logan and Brown and further in view of U.S. Patent 6,282,281 (Low).

In addition, the Examiner rejected Claims 1, 7 and 13-17 under 35 U.S.C. §112, second paragraph, as being indefinite; and rejected Claims 1-4, 6 and 13-17 under 35 U.S.C. §101 as directed to non-statutory subject matter. The Examiner also objected to language used in Claim 7.

Independent Claims 1, 7 and 13 are being amended to better define the subject matters of these claims. Claims 2-4 and 6 are being amended to keep the language of these claims consistent with the language of Claim 1, and an editorial correction is being made to Claim 12.

It is believed that the amendments being made herein fully address the Examiner's objection to Claim 7, the rejections of Claims 1, 7 and 13-17 under 35 U.S.C. §112, and the rejection of Claims 1-4, 6 and 13-17 under 35 U.S.C. §101.

Objection to Claim 7

With regard to Claim 7, the Examiner objected to the phrase "said accessed instance of the application." This phrase is being amended to read as "said accessed instance of the application operating on one of the servers to perform a group of functions." This amended phrase more expressly indicated how the instance performs the described functions; and, in particular, the instance does this by operating on one of the servers. It is believed that this

change overcomes the Examiner's objection to the language of Claim 7, and the Examiner is asked to reconsider and to withdraw that objection.

Rejections under 35 U.S.C. §112

The Examiner, in the Office Action, observed that there is insufficient basis in Claim 7 for the limitation "the different databases is best suited for the user." Claim 7 is being amended to address this objection. Specifically, the first subparagraph of the claim is being amended to indicate that the databases of the plurality of instances are different and have different information. This provides the appropriate antecedent basis for the subsequent reference in Claim 7 to "different databases."

In rejecting Claims 1, 7 and 13 under 35 U.S.C. §112, second paragraph, the Examiner argued that, in these claims, it is unclear how an instance could select another instance or send to a user, and the Examiner suggested amending the claims to include the limitation that the instances are operating on servers to perform functions. Claims 1, 7 and 13 are being amended pursuant to the "Examiner's suggestion. In particular, each of these claims is being amended to include the limitation "each of the instances operating on one of the servers to perform a set of functions." Also, each of Claims 1, 7 and 13 is being amended to describe the feature that an accessed instance operates on one of the servers to perform functions of selecting one of the instances for a session with the user, and sending to the user an identifier for establishing that session.

With these changes, Claims 1, 7 and 13 clearly describe how the instances select one of the instances and send an identifier to the user. This is done by the instances operating on the servers to perform the functions described in the claims – that is, selecting one of the instances for a session with the user, and sending to the user an identifier for establishing that session.

The Examiner, in addition, argued, in connection with Claims 13-17, that the specification does not positively disclose what a program storage device is. With respect to this issue, Claim 13 is being amended to change the phrase “A program storage device readable by machine” to “A program storage device readable by a computer.” Moreover, this program storage device is described in Claim 13 as “tangibly embodying a program of instructions executable by the computer,” and thus this program storage device is a tangible item.

As Applicants noted in the Amendment dated April 21, 2008, the phrase “program storage device” is a common expression and, in the context of the present application, is well understood by those of ordinary skill in the art. For instance, a word search through the US PTO Web site shows that the phrase “program storage device” is found in the claims of more than 3900 U.S. patents. Furthermore, the claims of the present application – which form part of the disclosure – expressly describe the purpose of the program storage devices. Specifically, this program storage device is, as described in Claim 13, “readable by computer, tangibly embodying a program of instructions executable by the computer to perform method steps for establishing a session, via the Internet, between a user and an application.”

Claims 1, 7 and 13 were further rejected under 35 U.S.C. §112, second paragraph, as being incomplete. The Examiner argued that, in these claims, the relationship between instances of the application and other claimed elements is unclear. The amendments made herein describe these relationships more expressly. For example, each of Claims 1, 7 and 13, as mentioned above, is being amended to indicate expressly that each of the instances operates on one of the servers to perform a set of functions, and these functions include selecting one of the instances for a session with the user, and sending to the user an identifier for establishing that session. Furthermore, this instance is selected on the basis of which of the instances has the best database for the user.

With the changes made herein, Claims 1, 7 and 13 clearly describe the relationship between the instances, the Internet session, the databases, and the servers.

After carefully reviewing the claims, it is believed that Claims 1, 7 and 13-17 are clear and definite and fully comply with the requirements of 35 U.S.C. §112. The Examiner is, accordingly, asked to reconsider and to withdraw the rejections of these claims under 35 U.S.C. §112, second paragraph.

Rejections under 35 U.S.C. §101

Claims 1-4, 6 and 13-17 were also rejected under 35 U.S.C. §101 as directed to non-statutory subject matter.

After a review of this issue, Applicants' Attorneys are amending Claims 1-4 and 6, which are method claims, to define "A computer implemented method." Since a computer is an apparatus, these claims are now tied to another statutory class – an apparatus. Consequently, Claims 1-4 and 6 are now themselves described to statutory subject matter.

Claim 13, as mentioned above, is being amended to change "machine" to "computer." With this change, it is clear that Claim 13, and Claims 14-17, which are dependent from Claim 13, are not directed merely to an abstract idea, but instead are directed to an article of manufacture that results in a practical application, producing a concrete, useful and tangible result. In particular, Claims 13-17 are directed to a program storage device readable by computer and tangibly embodying a program of instructions executable by the computer to perform described method steps. As described in these claims, the program storage device tangibly embodies a program of instructions executable by the computer to achieve a specific, useful and concrete result – establishing a session between a user and an application.

For the foregoing reasons, the Examiner is asked to reconsider and to withdraw the rejection of claims 1-4, 6 and 13-17 under 35 U.S.C. §101.

Rejections under 35 U.S.C. §103

Moreover, Claims 1-4, 6-10 and 12-17 patentably distinguish over the prior art and are allowable. The Examiner is thus also asked to reconsider and to withdraw the rejection of Claims 1-4, 6-10 and 12-17 under 35 U.S.C. §103, and to allow these claims

Generally, Claims 1-4, 6-10 and 12-17 patentably distinguish over the prior art because the prior art does not disclose or render obvious selecting one of the instances of the application for a session with a user based on which of the databases, of the different instances, has the information that is best for the user.

The present invention relates to directing users to one of a group of application instances, available via the Internet on different servers, based on user profiles and security factors. As discussed in detail in the present application, an ever-increasing number of applications are being made available via the Internet, and these applications are being used by an increasing number of people. This presents important new opportunities and challenges for businesses and Web site operators. One significant challenge is to provide a user with appropriate information, which may vary substantially from user to user.

The present invention effectively provides the user with that appropriate information. Generally, this is done by using one Internet application instance, on one Web server, to route users automatically to one of a group of application instances, which have different database, so that the user is routed to the instance that has the best database for that user.

More specifically, in a method embodying the invention, a plurality of different instances of the application are provided on a plurality of servers, and these plurality of instances of the application operate on the plurality of servers to perform a group of functions. Each of the instances has a respective Internet address and a respective database. These databases of the plurality of instances are different and have different information.

A user accesses one of these instances, via the Internet, by means of the Internet address of that one instance. The accessed instance operates on one of the servers to perform the function of selecting one of the application instances for a session with the user based on which one of the databases, of the plurality of instances, has the information that is best suited for the user according to a defined procedure. The originally accessed instance operates on said one of the servers to perform the function of sending to the user an identifier for establishing a session with that selected instance of the application. The user then establishes the session with that selected instance using the identifier sent to the user.

The prior art does not disclose or render obvious the feature of selecting the instance for the session with the user based on which database, of the different instances, has the information that is best suited for the user.

For instance, Logan, et al. discloses a procedure for balancing a load among distributed servers. In this procedure, a switch examines the source IP address of the domain name server request, examines the user's IP-address, and determines if there is a server site that is geographically close to that user. The switch may choose a next remote server based on the remote server location compared to the domain name server request source. The switch then sends the domain name sever response back to the client domain name server with the IP addresses in an ordered list.

It is very significant that in the system described in Logan, et al, each of the distributed sites have identical storage (see for example, column 3, lines 8-11). The present invention uses the exact opposite arrangement – the instances have different databases.

Brown discloses a method and system for directing wireless data packets. One embodiment of the system includes a data port and a redirection engine. The data port is configured to receive data in accordance with a wireless data protocol. The redirection engine inspects the received data and directs corresponding data in accordance with the wireless data protocol to a particular one of a plurality of computer network elements.

Brown, thus, is directed to routing individual data items to computer network elements. This is very different from establishing a session between a user and a server, where communications are sent back and forth between the user and the server.

Moreover, in view of the fact that, an important feature of the Logan system is that the different sites have identical data storage, it cannot be said that it would be obvious to one of ordinary skill in the art to modify the Logan system to have different sites with different databases. Such a modification would make the Logan system ineffective for its intended purpose.

The other references of record have been reviewed, and these other references, whether considered individually or in combination, also do not disclose or render obvious this feature of the present invention.

Low discloses a system for providing telecommunications services. In this system, a server is connected to a computer network. This network is generally accessible to users of the telecommunications system. Users place service resource items on the server, and a predetermined code is associated with each service resource item. When a control subsystem

receives a service request, that control subsystem uses the predetermined code to access a corresponding service resources item to provide service in response to the service request.

The Examiner cited Low primarily for its disclosure, in column 4, lines 25-31, that a user profile is configurable.

Configurable user profiles are known. What is important in the present invention is that the selected instance is chosen based on which of the different databases, of the set of instances, is best suited for the user.

Low, like Logan, et al. and Brown, does not disclose or render obvious this aspect of this invention.

This feature of the present invention is of utility because, as a result, the application instances do workload management and also to enforce security rules. Under these security rules, for example, a user on one instance might not be given access to another instance.


Independent Claims 1, 7 and 13 are being amended to describe more expressly differences between the present invention and the prior art; and in particular, each of these claims is being amended to indicate that the databases of the plurality of instances have different information. This clearly distinguishes the claims from a possible interpretation of Logan that the databases of Logan might be considered different because they are in different locations. Claims 1, 7 and 13 of this application are also being amended to indicate expressly that the selected instance is selected based which of the databases, of the plurality of instances, has the information that is best suited for the user according to a defined procedure.

In view of the above-discussed differences between Claims 1, 7 and 13 and the prior art, and because of the advantages associated with those differences, Claims 1, 7 and 13 patentably distinguish over the prior art and are allowable. Claims 2-4 and 6 are dependent from Claim 1 and are allowable therewith; and Claims 8-10 and 12 are dependent from, and are allowable

with, Claim 7. Likewise, Claims 14-17 are dependent from Claim 7 and are allowable therewith. The Examiner is thus asked to reconsider and to withdraw the rejection of Claims 1-4, 6-11 and 13-17 under 35 U.S.C. §103, and to allow these claims.

For the reasons set forth above, the Examiner is asked to reconsider and to withdraw the objection to Claim 7, the rejections of Claims 1-4, 6 and 13-17 under 35 U.S.C. §101, and the rejections of Claims 1, 7 and 13-17 under 35 U.S.C. §112. The Examiner is also requested to reconsider and to withdraw the rejection of Claims 1-4, 6-11 and 13-17 under 35 U.S.C. §103, and to allow these claims. If the Examiner believes that a telephone conference with Applicants' Attorneys would be advantageous to the disposition of this case, the Examiner is asked to telephone the undersigned.

Respectfully submitted,


John S. Sensny
Registration No. 28,757
Attorney for Applicant

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza – Suite 300
Garden City, New York 11530
(516) 742-4343

JSS:jy